

# **EXHIBIT 4**

Page 1

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

ORACLE CORPORATION, a )  
Delaware corporation, ORACLE )  
USA, INC., a Colorado )  
corporation, and ORACLE )  
INTERNATIONAL CORPORATION, )  
a California corporation, )  
Plaintiffs, )  
vs. ) CASE NO. 07-CV-01658 (MJJ)  
)  
SAP AG, a German corporation, )  
SAP AMERICA, INC., a Delaware )  
corporation, TOMORROWNOW, )  
INC., a Texas corporation, and )  
DOES 1-50, inclusive, )  
Defendants. )

"HIGHLY CONFIDENTIAL"

ORAL VIDEOTAPED DEPOSITION

THOMAS BAMBERGER

JANUARY 29, 2009

ORAL VIDEOTAPED DEPOSITION OF THOMAS BAMBERGER, produced as a witness at the instance of the Plaintiffs and duly sworn, was taken in the above-styled and numbered cause on the 29th day of January, 2009, from 8:44 a.m. to 1:27 p.m., before Dana Richardson, Certified Shorthand Reporter in and for the State of Texas, reported by computerized stenotype machine at the offices of Jones Day, 717 Texas Avenue, Suite 3300, Houston, Texas 77002, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.

Job No. 1603-89981

THOMAS BAMBERGER January 29, 2009  
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10:40:48 11

10:41:08 12 Q. I'm showing you what has been previously marked as  
10:41:13 13 Deposition Exhibit 608.10:41:19 14 This is a PowerPoint presentation titled  
10:41:21 15 "Business Case TomorrowNow 2006, Board Area: Gerd Oswald,  
10:41:26 16 Status: November 16, 2005."

10:41:28 17 Have you seen this before?

10:41:30 18 A. Can I flip through?

10:41:33 19 Q. Certainly.

10:42:35 20 A. (Witness reviewing document.)

10:42:37 21 Q. Having looked at it --

10:42:38 22 A. Yes.

10:42:39 23 Q. -- do you recall whether you've seen it before?

10:42:43 24 A. I recall it.

10:42:43 25 Q. Okay. Did you have input into it?

10:42:50 1 A. Yes.

10:42:51 2 Q. And what was that?

10:42:56 3 A. Input has been to -- to collect content of the

10:43:04 4 business owner, of Thomas Zeimen, and put it into the standard

10:43:11 5 format of generating this business case.

10:43:14 6 Q. Do you have a recollection whether you personally

10:43:16 7 collected this content and put it into a template or whether

10:43:20 8 it was a member of your team?

10:43:23 9 A. I don't remember.

10:43:24 10 Q. Would your team also have done a check of the content

10:43:27 11 as we've previously discussed?

10:43:30 12 A. Related to financials, yes.

10:43:31 13

10:43:32 14

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10:43:53 17

10:43:58 18

10:44:02 19

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10:44:06 21

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1 STATE OF TEXAS

2 COUNTY OF HARRIS

3 REPORTER'S CERTIFICATE

4 I, Dana Richardson, a Certified Shorthand Reporter in and  
5 for the State of Texas, do certify that this deposition  
6 transcript is a true record of the testimony given by the  
7 witness named herein, after said witness was duly sworn by me.  
8 The witness was requested to review the deposition.

9 I further certify that I am neither attorney or counsel  
10 for, related to, nor employed by any parties to the action in  
11 which this testimony is taken and, further, that I am not a  
12 relative or employee of any counsel employed by the parties  
hereto or financially interested in the action.

13 I further certify that the amount of time used by each  
14 party at the deposition is as follows:

15 Ms. Bree Hann - 03:25

16 Mr. Scott Cowan - 00:00

17 SUBSCRIBED AND SWORN TO under my hand and seal of office  
18 on this the 3<sup>rd</sup> day of February,  
19 2009.

20 Dana Richardson

21 Dana Richardson, CSR

22 Texas CSR 5386

23 Expiration: 12/31/09

24 Merrill Legal Solutions, Firm No. 210

25 315 Capitol, Suite 100

Houston, Texas 77002

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## Merrill Legal Solutions



### INSTRUCTIONS FOR READING/CORRECTING YOUR DEPOSITION

To assist you in making changes and /or corrections to your deposition testimony, please follow the directions below. If additional pages are necessary, please furnish them and attach the pages to the back of the errata sheet.

Please read your transcript carefully. If you find any errors or changes you wish to make, insert the changes and/or corrections on the errata sheet by listing the page and the line number reference and then the change you wish to make.

Please do not make any changes and /or corrections on the face of the transcript.

Please do NOT change any of the questions.

After completing your review, please sign the last page of the errata sheet, above the designated "Signature" line and return the Errata sheets to Merrill Legal Solutions at 135 Main Street, 4<sup>th</sup> Floor, San Francisco, CA 94105 or fax them to (415) 357.4301.

#### Errata sheet

Page Line

<u>5</u>	<u>21</u>	Change: <u>DEFENDANTS, SAD</u>
<u>15</u>	<u>22</u>	Change: <u>CONTROLLING</u>
<u>16</u>	<u>17</u>	Change: <u>GEO SVEDAL</u>
<u>18</u>	<u>18</u>	Change: <u>STATUS</u>
<u>36</u>	<u>25</u>	Change: <u>JOSENHALS</u>
<u>80</u>	<u>22</u>	Change: <u>ZIEMEN</u>

Page Line

98 2

Change: HANE MANN

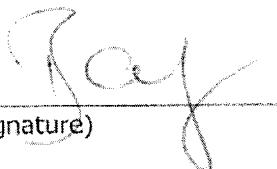
Change: \_\_\_\_\_

X

Subject to the above changes, I certify that the transcript is true and correct.

\_\_\_\_\_

No changes have been made. I certify that the transcript is true and correct.

  
(signature)

Feb. 19, 07  
(date)